

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**INCOME TAX REFERENCE No. 294 of 1995****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG****HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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COMMISSIONER OF INCOME TAX - Applicant(s)**Versus****NIRMA LTD - Respondent(s)**

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Appearance :

MR BB NAIK for Applicant(s) : 1,

NOTICE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**and****HONOURABLE MR.JUSTICE M.R. SHAH****Date : 14/08/2006****ORAL JUDGMENT****(Per : HONOURABLE MR.JUSTICE R.S.GARG)**

1. At the instance of the Revenue, Income-tax

Appellate Tribunal, Ahmedabad Bench "C" has made this Reference for the opinion of this Court on the following question.

"Whether the Appellate Tribunal was right in law in holding that the assessee was entitled to deduction of interest for 12 months for the calendar year 1983 when the debit note was received after the close of the accounting year of the assessee?"

It is to be noted that the Tribunal, following its own decision for the assessment year 1984-85 in I.T.A. No. 1818/Ahd/1989 decided the matter in favour of the assessee, but on an application, a Reference was made to this Court which was registered as ITR No. 229/93.

Following its own judgment, the Tribunal has decided the matter in favour of the assessee. During pendency of the present Reference, the earlier Reference, that is, ITR No. 229/93 came to be decided by this Court in favour of the assessee. Shri Nayak, learned

counsel for the Revenue vehemently argued that the earlier judgment is distinguishable and it deserves consideration by the larger Bench. After hearing the parties at length and on going through the judgment in ITR No. 229 of 1993, reported in 278 ITR 588 in the case of CIT Vs. Nima Ltd., we are unable to concede to the submission made by Mr. Nayak. The judgment is on the same facts and in our opinion, does not deserve consideration by a larger Bench. The Reference is answered in favour of the assessee and against the Revenue. The Reference stands disposed of. No costs.

[R.S. GARG, J.]

[M.R. SHAH, J.]

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